

## Submission by the United Nations High Commissioner for Refugees

### For the Office of the High Commissioner for Human Rights' Compilation Report

#### Universal Periodic Review: *Fourth Cycle, 43rd Session*

## Israel

### I. BACKGROUND INFORMATION

Israel ratified the *1951 Convention relating to the Status of Refugees* in 1954 and acceded to its *1967 Protocol* in 1968 (hereinafter jointly referred to as the *1951 Convention*). Israel also ratified the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) in 1958 and has signed, but not ratified, the *1961 Convention on the Reduction of Statelessness*.

The *1951 Convention* has not been incorporated into Israeli legislation. Israel's obligations under the *1951 Convention* are acknowledged only in the *Procedure for Handling Political Asylum Seekers in Israel*<sup>1</sup> from 2011 (the *2011 Procedure*), issued by the Israeli Population Immigration and Border Authority (PIBA). Israel's asylum system commenced its operation in 2009. The status and rights of asylum-seekers and refugees in Israel are not regulated in primary legislation. Rather, their stay is mainly governed by a 2(a)(5) permit, which merely constitutes a conditional release from immigration detention (a bridging visa) and does not confer rights other than *non-refoulement*.<sup>2</sup>

Israel currently hosts around 25,162 asylum seekers, as of end of June 2022. 12,169 others are of concern to UNHCR, mainly Eritrean and Sudanese asylum-seekers who are no longer (or never were) in the formal asylum system. Approximately 35,000 Ukrainian nationals in Israel are affected by the war in their country which commenced on 24 February 2022. This figure includes Ukrainian nationals who were present in Israel, legally and illegally, before the outbreak of the war, as well as arrivals after the war.

Since the inception of Israel's asylum system in 2009, Israel has recognised only 578 refugees and granted humanitarian status to 739 individuals. Israel has one of the lowest asylum recognition rates of any economically comparable country, particularly OECD countries, with significantly less than 1% of asylum applicants being recognised as refugees. This is even though the two major asylum-seeking populations in Israel, Sudanese, and Eritreans, have very high recognition rates in other asylum systems. Sudanese and Eritreans have few rights in Israel, beyond a *de facto* protection from deportation, and suffering significant protection shortcoming in basic rights and access to services. Asylum-seekers, particularly those with vulnerabilities such as survivors of torture, disabilities or serious medical conditions and women, struggle to meet basic needs. Children born to asylum-seekers in Israel face a future with no prospect of obtaining more than temporary status in Israel, following their parents'.

### II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

**Linked to 3rd cycle UPR recommendation no.118.139:** "Respect the rights of refugees as enshrined in the Geneva Refugee Convention; and refrain from implementing the policy of forcible relocation to third countries without ensuring that relocation agreements include protection safeguards and that the overall legal framework is known by those who may

<sup>1</sup> National Legislative Bodies / National Authorities, Israel: Procedure for Handling Political Asylum Seekers in Israel, January 2011, available at: [https://www.gov.il/BlobFolder/policy/handling\\_political\\_asylum\\_seekers\\_in\\_israel/he/5.2.0012\\_eng.pdf](https://www.gov.il/BlobFolder/policy/handling_political_asylum_seekers_in_israel/he/5.2.0012_eng.pdf).

<sup>2</sup> Article 2(a)(5) of the Law on Entry into Israel, 1952 (Amendment no. 9, 25 July 2001).

volunteer for relocation (Germany).”

UNHCR notes the policy of forced or induced relocation to Rwanda and Uganda initiated in 2013 has since been abandoned by the Israeli government in 2018, under significant public pressure and potential legal action. However, UNHCR observes that Israel continues to offer asylum-seekers in Israel the option of facilitated relocation to Uganda which is exercised by a small but steady stream of asylum-seekers in Israel. While this does not involve the same level of compulsion as existed in the program from 2013 to 2018, where asylum-seekers faced a choice between deportation and indefinite detention, asylum-seekers who opt for facilitated relocation to Uganda are often driven to do so by desperation at the long-term lack of status and rights in Israel. Moreover, asylum-seekers relocated to Uganda have no secure residence or status in the country. UNHCR operations in other countries have reported cases of asylum-seekers deported from Israel to African countries as having been identified in Mediterranean trafficking routes.

According to official data by the Israeli Population, Immigration, and Border Authority (PIBA) in 2019, 412 asylum-seekers opted to have their travel to Uganda facilitated by the Israeli authorities. The numbers were less during the first years of the COVID-19 pandemic, with 77 in 2020 and 141 in 2021, but are rising again in 2022, with 149 departures to Uganda in the first half of 2022.

### **III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS**

#### **Challenges linked to outstanding 3rd cycle UPR recommendations**

##### **Issue 1: Fair and efficient asylum procedures**

**Linked to 3rd cycle UPR recommendation no.118.135: “Ensure access for asylum seekers in Israel to a fair and prompt refugee status determination process (Slovenia)”**

The Israeli asylum procedure continues to fall short of a fair, efficient and effective system. It is convoluted with multiple steps and levels of decision making which results in significant delays in decision making. The average time span for a first instance decision on an asylum application is more than two years, while many asylum-seekers, notably Sudanese and Eritreans, have been in the country for more than ten years without a decision on their asylum claim. There is currently litigation underway to challenge the chronic delays in asylum decisions.

The Israeli asylum system is failing to handle the applications before it. The system is currently congested and understaffed, with approximately 25,162 pending asylum applications in first instance (as of 30 June 2022), including extended delays in decisions on Eritrean and Sudanese asylum-seekers whose claims have been left pending for many years. The Advisory Committee to the Minister of the Interior on Refugee Issues (NSGB with Officers from Ministry of Interior, Justice, and Foreign Affairs) meets only once a month and is headed by two chairs on part-time positions. Rejected asylum-seekers may appeal to an Appeals Tribunal, but there are only 11 adjudicators assigned to hear asylum cases. The Appeals Tribunal decisions do not in practice provide recognition as a refugee to successful appellant and instead refer the case back to the first, administrative, instance for re-evaluation.

There are 4,406 Sudanese asylum-seekers, mostly from the conflict affected areas of Sudan, whose asylum applications have been pending for extensive periods. Due to the lengthy delay in asylum proceedings, the Supreme Court ordered, in April 2021, that Sudanese asylum-seekers from conflict areas who had applied for asylum prior to June 2017 should be granted A5 visas (the same visa which is granted to recognised refugees) as of 1

January 2022, if the Israeli authorities had not completed their individual asylum claims. As the Israeli authorities did not conclude individual asylum decisions for this group by the end of 2021, 2,445 Sudanese from Darfur, Nuba Mountain, and Blue Nile were granted A5 visas, which allows them a range of rights and benefits, including the right to work and to enrol in national health insurance.

With respect to Eritreans, Israel maintains, contrary to UNHCR's position, that asylum claims based on draft evasion/desertion from the Eritrean military, do not give rise to refugee status under the *1951 Convention*. Since UNHCR's handover of Refugee Status Determination (RSD) to the Government in mid-2009, the total number of individually recognized refugees stands at 88 (of whom 36 are Eritrean nationals), with an additional 490 Sudanese refugees who had been granted humanitarian status by government decision in 2007 and had their status upgraded to refugee status through a court decision in 2020 (less than one per cent recognition rate).

Israel does not have specific asylum procedures for ports of entry to Israel and does not provide information regarding the asylum proceedings to persons who may need international protection including at the borders and airports. Information about the Israeli asylum procedure is available in immigration detention centres, where persons who are not admitted at ports of entry but refuse to depart are detained. Assistance, legal or otherwise, is not provided. The inability to afford legal representation or even to contact pro bono legal advice and representation significantly affects the ability to access the asylum procedure and to appeal a negative decision.

There are about 214 asylum applications by nationals of the Democratic Republic of Congo (DRC) pending before PIBA. No decisions have been made on these applications because the Israeli Government has applied, since 2002, a policy of non-return for this group of individuals given the prevailing circumstances in the country. In April 2022 the Israeli Ministry of Interior announced a decision to abolish its non-return policy, conduct Refugee Status Determination for those who applied, and return those who are not in need of international protection to DRC. Following court proceedings, the Government announced that at the moment families with minors shall not be returned, and other DRC nationals who applied for asylum will undergo RSD procedure. Those who failed to apply for asylum, will be granted sufficient time to do so. Given the long period during which DRC nationals have been staying in Israel, and the weaknesses in the Israeli RSD procedure, this decision will potentially create significant hardship for DRC asylum seekers, many of whom have lived in Israel for 15 or 20 years, including their Israeli born children.

### **Recommendations:**

UNHCR recommends that the Government of Israel:

- a) Simplify the asylum procedure by streamlining its structure, including by ensuring full-time positions for first instance determination and decision-making bodies and by allowing the Appeals Tribunals to issue decisions rather than only remit cases back to the Ministry of Interior;
- b) Introduce a procedural time limit for delivering decisions on asylum applications;
- c) Provide linguistic and legal assistance throughout all stages of the asylum procedure;
- d) Grant refugee status or at least provide subsidiary protection with associated rights where return would constitute *refoulement*;
- e) Reconsider its refusal to assess desertion/draft evasion from the Eritrean Military as an imputed political opinion;
- f) Conduct fair RSD procedures for DRC nationals and careful examination of conditions in DRC for the purpose of carrying out potential individual returns; and
- g) Consider appropriate arrangements for DRC nationals who have been in Israel for a very long period of time, resulting in strong family, social and economic links in Israel.

## **Issue 2: Racism against African refugees and asylum-seekers and access to employment**

**Linked to 3rd cycle UPR recommendation no.118.63: “Intensify its efforts to address racism against Africans in Israel (South Africa)”**

Although all asylum-seekers in Israel suffer from similar poor treatment, the most visible and longest staying community of asylum-seekers are from Africa: Eritrea, Sudan, and Democratic Republic of Congo. There are frequent public expressions of racism levelled by certain anti-refugee activists, particularly in south Tel Aviv. This includes posting of racist and insulting graffiti on the offices of NGOs working with asylum-seekers and of schools attended by asylum-seekers. On some occasions this has extended to physical harassment of asylum-seekers and NGO staff. While there have been instances of criminal proceedings against perpetrators of these acts, the Israeli government could do much more to counter negative stereotypes and hate speech against refugees and asylum-seekers, particularly those of African origin. Israel’s attempts in building acceptance towards Israeli citizens of African origin, in particular the Ethiopian community, is relevant in this regard. Demonstrating tolerance and acceptance toward persons of African descent, particularly asylum-seekers, is essential to effectively countering hate speech.

One of the issues that crystallises the nature of treatment towards this community is the barriers faced by asylum-seekers’ children to integrate into ordinary schools. Attempts by African asylum-seekers’ children to enrol in ordinary Israeli school in Tel-Aviv, even very close to their residence, has not been tolerated by the local and central authorities. A system of separate schools for children of asylum-seekers (who are mostly African) and children of migrant workers, continues to operate in south Tel Aviv. While the staff of these schools do their best to provide a high-quality education for asylum-seekers’ children, there is notably insufficient commitment on the part of the Municipality or the Ministry of Education Department to practically desegregate the schools. Such a measure would support asylum-seekers’ children’s specific needs as well as facilitate their inclusion in the broader school system and society.

On 30 June 2022 PIBA published a procedure that significantly limits the employment opportunities for asylum-seekers in Israel. The procedure, which will enter into force on 1 January 2023, prescribes that in designated parts of Israel, largely those where substantial economic activity takes place, asylum-seekers can only be employed in a limited number of economic sectors. Practically 17 economically active municipalities have been designated where an asylum-seeker, excluding minor exceptions, will be able to work only in construction, agriculture, institutional caretaking, the hotel industry, and restaurants Those who worked in restaurants prior to June 2022 may continue work there. Given the small size of the asylum-seeker population, compared with the general population, it is difficult to justify the planned policy as an attempt to reasonably regulate the country’s social cohesion and the competition in the labor market. Employers will bear criminal and administrative sanctions should they fail to uphold this gravely restricting policy.

Most refugees in Israel hold a conditional release permit, which does not formally acknowledge a right to work. Their employment is also made difficult due to the short expiry dates of their visas and various obligations imposed on employers towards employing refugees.

### **Recommendations:**

UNHCR recommends that the Government of Israel:

- a) Apply the national and international standards that uphold each person’s right for dignity and fair treatment and take active steps to combat racism and hate speech against asylum-seekers of African origin;

- b) Introduce policies that will facilitate integration of asylum-seekers' school children into mainstream Israeli schools in order to realize the needs of both asylum-seekers' and Israeli children in the same neighbourhoods; and
- c) Refrain from unjustified limitations on the work rights of asylum seekers, particularly those who have been staying in the country for a prolonged period.

### **Additional protection challenges**

#### **Issue 3: Ukrainian asylum-seekers**

About 35,000 Ukrainian are present in Israel and unable to return to Ukraine due to the war which commenced on 24 February 2022. This includes Ukrainians who were present in Israel before the war, legally and illegally, as well as arrivals after the war. The Ministry of Interior has introduced a policy of non-return and non-enforcement with respect to Ukrainians nationals in Israel. Israel has issued tourist visas to Ukrainian nationals entering Israel after 24 February 2022 and has advised them that they do not need to apply for asylum. Ukrainians entering Israel retain the right to a 90-day visa free entry to Israel, after successful litigation against the government's attempt to end visa free entry for Ukrainians shortly after the war in Ukraine started. As a result, Ukrainian asylum-seekers in Israel, like asylum-seekers of African origin, have few rights beyond the protection from deportation. Ukrainian asylum-seekers have no legal right to work, only a policy of non-enforcement for illegal working. Access to public health insurance is limited to Ukrainian asylum-seekers over 60. While Israel rapidly set up a call centre and allocated 15 million shekels (around USD\$ 4.4 million) for support for Ukrainian asylum-seekers, this is insufficient in an environment where they do not have basic rights, such as the right to work, health care and social security.

#### **Recommendations:**

UNHCR recommends that the Government of Israel:

- a) Provide a suitable status, such as humanitarian status, to Ukrainian asylum-seekers to reflect the humanitarian situation in Ukraine and the likely prolonged nature of the war;
- b) Allow Ukrainian asylum-seekers to legally work in their places of residence in order to facilitate self-sufficiency and reduce dependency on emergency assistance and to have access to national health insurance.

#### **Issue 4: Access to Basic Needs and Essential Services**

Asylum-seekers are not covered by the *1994 National Health Insurance Law*, which ensures comprehensive medical services and medication to Israeli citizens and residents only (including recognized refugees). Limited health insurance is available to asylum-seekers if purchased by them privately or by their employers as required by the *Foreign Workers Law*. Asylum-seekers are provided with access to emergency medical services in hospitals. Two free clinics, a public health clinic and a mental health clinic run by the Ministry of Health in Tel Aviv, are also available. The clinics are underfunded and are less accessible to asylum-seekers living in the periphery. Children of asylum-seekers are entitled to a special subsidized health insurance scheme provided by one of Israel's public health providers "Meuhedet". Participation is voluntary and only half of asylum-seekers' children are estimated to be currently insured. An attempt by the Ministry of Health in June 2021 to extend health insurance to asylum seekers has yet to materialize.

Most welfare services and benefits are also not accessible to asylum-seekers. The *1995 Social Security Law* applies to Israeli citizens and residents only (with exceptions of maternity leave and work-related accidents). Welfare services, under the *Welfare Act* and the *Social Workers Law*, are provided to asylum-seekers by municipal authorities only in exceptional cases, such as removal of children from home and, to some degree, when



arrangements for shelters are needed due to domestic violence. Although some improvement has been introduced in relation to social services for sick or disabled homeless asylum seekers and women enduring survival sex, the denial of the most basic services and benefits is particularly detrimental to asylum-seekers with specific needs, such as persons with disability, victims of torture, victims of trafficking, survivors of domestic violence and single parents.

**Recommendations:**

UNHCR recommends that the Government of Israel:

- a) Extend coverage of the *National Health Insurance Law* to asylum-seekers and those who cannot be removed or, alternatively, establish a subsidized health insurance scheme and provide additional resources to State-run clinics;
- b) Extend coverage of the *Social Security Law* to asylum-seekers;
- c) Apply in full, through municipal offices, the *Welfare Act*, and the *Social Workers Law* to asylum-seekers and those who cannot be removed from Israel; and
- d) At a minimum, provide mental health and welfare services to vulnerable asylum-seeker groups, including victims of torture.

**Issue 5: Status and protection of youth asylum-seekers**

Asylum-seekers' children, including many who were born in Israel and know no other country, are growing up with very limited prospect of a viable future in Israel. Increasing numbers of asylum-seeker children are approaching the age of 18 with no prospect of any status in Israel beyond the temporary status with which their parents have lived for many years. Recent research compared Israel to ten other developed countries and found that Israel is the only country which provides no regularised status for children of asylum-seekers born in and residing in their territory for more than ten years. Asylum seekers' children entering adulthood have limited prospect of further education, entering professional employment. or even having more than a very temporary status as asylum seekers.

**Recommendations:**

UNHCR recommends that the government of Israel:

- a) Provide regular residency status to asylum-seeker children born and living for long periods in Israel; and,
- b) Invest resources in supporting youth asylum-seekers in their transition to adult life, including through facilitating access to tertiary education, vocational training, and employment.